

Patente, Marken u. Lizenzen

From the INTERNATIONAL BUREAU

PCT

17. Aug. 2005

To:

AST

NOTIFICATION OF TRANSMITTAL
OF COPIES OF TRANSLATION
OF THE INTERNATIONAL PRELIMINARY REPORT
ON PATENTABILITY
(CHAPTER I OR CHAPTER II)
OF THE PATENT COOPERATION TREATY
(PCT Rule 72.2)

BASF AKTIENGESELLSCHAFT
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Date of mailing (day/month/year)
11 August 2005 (11.08.2005)

EL Phase beendet 19.05.05

Applicant's or agent's file reference
0000054205

IMPORTANT NOTIFICATION

International application No.
PCT/EP2003/014582

International filing date (day/month/year)
19 December 2003 (19.12.2003)

Applicant

BASF AKTIENGESELLSCHAFT et al

1. Transmittal of the translation to the applicant.

The International Bureau transmits herewith a copy of the English translation made by the International Bureau of the international preliminary examination report established by the International Preliminary Examining Authority.

2. Transmittal of the copy of the translation to the elected Offices.

The International Bureau notifies the applicant that copies of that translation have been transmitted to the following elected Offices requiring such translation:

AZ, CA, CH, CN, GH, KG, KP, KR, MK, MZ, RU, TM

The following elected Offices, having waived the requirement for such a transmittal at this time, will receive copies of that translation from the International Bureau only upon their request:

AE, AG, AL, AM, AP, AT, AU, BA, BB, BG, BR, BW, BY, BZ, CO, CR, CU, CZ, DE, DK, DM, DZ, EA, EC, EE, EG, EP, ES, FI, GB, GD, GE, GM, HR, HU, ID, IL, IN, IS, JP, KE, KZ, LC, LK, LR, LS, LT, LU, LV, MA, MD, MG, MN, MW, MX, NI, NO, NZ, OA, OM, PG, PH, PL, PT, RO, SC, SD, SE, SG, SK, SL, SY, TJ, TN, TR, TT, TZ, UA, UG, US, UZ, VC, VN, YU, ZA, ZM, ZW

3. Reminder regarding translation into (one of) the official language(s) of the elected Office(s).

The applicant is reminded that, where a translation of the international application must be furnished to an elected Office, that translation must contain a translation of any annexes to the international preliminary examination report.

It is the applicant's responsibility to prepare and furnish such translation directly to each elected Office concerned (Rule 74.1). See Volume II of the PCT Applicant's Guide for further details.

The International Bureau of WIPO
34, chemin des Colombettes
1211 Geneva 20, Switzerland

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PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

Translation

Applicant's or agent's file reference 0000054205	FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)	
International application No. PCT/EP2003/014582	International filing date (day/month/year) 19 December 2003 (19.12.2003)	Priority date (day/month/year) 23 December 2002 (23.12.2002)
International Patent Classification (IPC) or national classification and IPC C23C 22/68, C07F 9/09, C07C 235/08, C09J 5/02		
Applicant BASF AKTIENGESELLSCHAFT		

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.

2. This REPORT consists of a total of 5 sheets, including this cover sheet.

This report is also accompanied by ANNEXES, i.e., sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).

These annexes consist of a total of _____ sheets.

3. This report contains indications relating to the following items:

I <input checked="" type="checkbox"/>	Basis of the report
II <input type="checkbox"/>	Priority
III <input checked="" type="checkbox"/>	Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
IV <input type="checkbox"/>	Lack of unity of invention
V <input checked="" type="checkbox"/>	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
VI <input type="checkbox"/>	Certain documents cited
VII <input type="checkbox"/>	Certain defects in the international application
VIII <input type="checkbox"/>	Certain observations on the international application

Date of submission of the demand 07 May 2004 (07.05.2004)	Date of completion of this report 11 March 2005 (11.03.2005)
Name and mailing address of the IPEA/EP	Authorized officer
Facsimile No.	Telephone No.

Form PCT/IPEA/409 (cover sheet) (July 1998)

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

I Basis of the report

1. With regard to the elements of the international application:*

 the international application as originally filed the description:

pages

1-19

, as originally filed

pages

, filed with the demand

pages

, filed with the letter of

pages

 the claims:

1-29

, as originally filed

pages

, as amended (together with any statement under Article 19

pages

, filed with the demand

pages

, filed with the letter of

pages

 the drawings:

pages

, as originally filed

pages

, filed with the demand

pages

, filed with the letter of

 the sequence listing part of the description:

pages

, as originally filed

pages

, filed with the demand

pages

, filed with the letter of

2. With regard to the language, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item. These elements were available or furnished to this Authority in the following language _____ which is:

 the language of a translation furnished for the purposes of international search (under Rule 23.1(b)). the language of publication of the international application (under Rule 48.3(b)). the language of the translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

 contained in the international application in written form. filed together with the international application in computer readable form. furnished subsequently to this Authority in written form. furnished subsequently to this Authority in computer readable form. The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished. The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.4. The amendments have resulted in the cancellation of: the description, pages _____ the claims, Nos. _____ the drawings, sheets/fig _____5. This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).**

* Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rule 70.16 and 70.17).

** Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/EP2003/014582

III. Non-establishment of opinion with regard to novelty, inventive step and industrial applicability

1. The questions whether the claimed invention appears to be novel, to involve an inventive step (to be non obvious), or to be industrially applicable have not been examined in respect of:

the entire international application.

claims Nos. 1-15

because:

the said international application, or the said claims Nos. _____ relate to the following subject matter which does not require an international preliminary examination (specify):

the description, claims or drawings (*indicate particular elements below*) or said claims Nos. _____ are so unclear that no meaningful opinion could be formed (specify):

the claims, or said claims Nos. _____ are so inadequately supported by the description that no meaningful opinion could be formed.

no international search report has been established for said claims Nos. 1-15.

2. A meaningful international preliminary examination cannot be carried out due to the failure of the nucleotide and/or amino acid sequence listing to comply with the standard provided for in Annex C of the Administrative Instructions:

the written form has not been furnished or does not comply with the standard.

the computer readable form has not been furnished or does not comply with the standard.

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.
PCT/EP 03/14582Supplemental Box
(To be used when the space in any of the preceding boxes is not sufficient)

Continuation of: III.

Non-establishment of opinion with regard to novelty,
inventive step and industrial applicability

Reference is made to the fact that claims for inventions for which no international search has been conducted cannot be the subject of an international preliminary examination (PCT Rule 66.1(e)).

The current claims 1-15 relate to an inordinately large number of possible compounds, of which only a small proportion are supported by the description within the meaning of PCT Article 6 and/or can be regarded as having been disclosed in the application within the meaning of PCT Article 5. In the present case the claims lack the proper support and the application lacks the requisite disclosure to such an extent that it does not appear possible to carry out a meaningful search covering the entire range of protection sought. The search was therefore directed to the parts of the claim that appear to be supported and disclosed in the above sense, namely the parts relating to the compounds as indicated in the embodiments, including closely related homologous compounds. Consequently, only those compounds have been searched in which L is an amide function and X is a group selected from $-\text{PO}(\text{OH})_2$, $-\text{PO}(\text{OH})(\text{OR})$, $-\text{OPO}(\text{OH})_2$ or $-\text{OPO}(\text{OH})(\text{OR})$.

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.
PCT/EP 03/14582

V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement				
Novelty (N)	Claims	23, 24, 26-29	YES	
	Claims	16-22, 25	NO	
Inventive step (IS)	Claims	23, 24	YES	
	Claims	16-22, 25-29	NO	
Industrial applicability (IA)	Claims	16-29	YES	
	Claims		NO	

2. Citations and explanations

Reference is made to the following documents:

D1: US-A-4 202 706 (NEWELL RICHARD G ET AL) 13 May 1980
(1980-05-13)

D2: WO 98/29580 A (METALLGESELLSCHAFT AG; JAEHNE EVELIN
(DE); SEBRALLA LARS (DE); BRAM C) 9 July 1998 (1998-
07-09)

1. The present application does not satisfy the requirements of PCT Article 33(1) because the subject matter of claims 16-22 is not novel within the meaning of PCT Article 33(2).

1.1. Document D1 discloses (the references in parentheses are to D1) the use of compounds of formula R_1-SO_2- $N(R_1)-R_2-PO_3M_2$ for the anticorrosion treatment of Al (claims 1-4). Preferred compounds include 11-(N-ethylperfluorooctanesulfonamide)undecanephosphonic acid and 6-(N-methylperfluorobutanesulfonamido) hexanephosphonic acid (column 2, lines 37-40). The treatment agent contains one or more of the compounds and a solvent or solvent mixture (column 4, lines 36-49). Therefore, the subject matter of claims 16-22 and 25 is not novel.

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.
PCT/EP 03/14582

1.2. Reference is made to the fact that claim 22 is not clear. The word "or" is apparently missing between "z¹" and "at least".

2. The present application does not satisfy the requirements of PCT Article 33(1) because the subject matter of claims 26-29 does not involve an inventive step within the meaning of PCT Article 33(3).

2.1. The preparation of compounds in which a metal is first treated with compounds with reactive end groups is a matter of conventional practice in the present field of activity (see e.g. D2, page 6, final paragraph to page 7, first paragraph). A pre-treatment such as is claimed in claim 29 is known from document D1 (column 4, lines 34 and 35; example 9). Therefore, the subject matter of claims 26-29 does not involve an inventive step.

3. The features of dependent claims 23 and 24 do not emerge from the prior art in a manner that is obvious to a person skilled in the art. Therefore, the subject matter of claims 23 and 24 involves an inventive step.

4. The present invention is considered industrially applicable because it can be used in the field of surface treatment.